

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,
Defendants.

69cv07941-BB

RIO CHAMA STREAM SYSTEM

Section 5, Rio Gallina

MOTION FOR APPROVAL OF FORM OF NOTICE
AND ORDERS TO SHOW CAUSE

COMES NOW the plaintiff State of New Mexico, *ex rel.* State Engineer, and pursuant to the August 8, 2007 *Scheduling and Procedural Order for the Determination of Priority Dates and Irrigation Water Requirements in the Rio Gallina Section of the Rio Chama Stream System* (Doc. No. 8752), the States moves the Court to enter its order granting approval of the form of the notice and orders to show cause, attached hereto and described below, to be served on defendants with respect to the determination of priority dates and irrigation water requirements in Section 5 of the Rio Chama Stream System (Rio Gallina):

Exhibit A: Notice and Order to Show Cause to be served on individual subfile defendants. The defendants' names, addresses and other defendant specific information will be added to the individual notice and orders submitted to the Court.

Exhibit B: Notice and Order to Show Cause to be served on the community ditches in Section 5 in connection with the priority dates of private ditches in Section 5. The names and addresses of the

community ditches will be added to the individual notice and orders submitted to the Court.

Exhibit C: Notice and Order to Show Cause to be served on the United States of America.

Exhibit D: Notice and Order to Show Cause for publication.

Counsel for the United States of America, David W. Gehlert, and counsel for the Gallina–Capulin Acequia Association, Mary E. Humphrey, do not oppose the granting of this motion.

WHEREFORE, the plaintiff State of New Mexico requests the Court to enter its order granting approval of the form of the notice and orders to show cause attached hereto as Exhibits A through D.

Respectfully submitted,

/s/ Ed Newville
EDWARD G. NEWVILLE
Special Assistant Attorney General
Office of State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of September, 2007 I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Ed Newville
EDWARD G. NEWVILLE

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RIO CHAMA STREAM SYSTEM

Section 5, Rio Gallina

Subfile No: XXXX

NOTICE AND ORDER TO SHOW CAUSE

To: [name or names]
[address]
[address]

Subfile No. [XXXX]

Ditch or Acequia: [XXXX]

Priority Dates:

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority date of your water right and ditch, or the priority date for any other community or private ditch in Section 5 (Rio Gallina). The priority dates proposed for these ditches are:

Vigiles Ditch 1876

Rincon Ditch 1876

Placitas Ditch 1876

Ex. A.

Sanchez–Maestas Ditch	1876
Cordova–Martinez Ditch	1878
Gonzales–Gurule Ditch	1878
Cecilia Ditch	1878
Valdez Ditch	1878
Emilio Jacquez Ditch	1902

These priority dates described above will apply to all individual irrigation water rights served by the ditches listed, unless individual water rights holders file objections.

Irrigation Water Requirements:

In addition, you are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State’s proposed determination of the irrigation water requirements for surface water irrigation use in Section 5 (Rio Gallina) as described below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.38 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 3.46 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 5.77 acre-feet per acre per annum.

The term “Consumptive Irrigation Requirement” (“CIR”) refers to the quantity of water, expressed in acre-feet per acre per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term “Farm Delivery Requirement” (“FDR”) refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the

consumptive irrigation requirements of crops grown on a farm in one calendar year. The “Project Diversion Requirement” (“PDR”) or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stockponds or other impoundments determined to have valid water rights in these proceedings.

If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action, and the Court will enter an order that recognizes the elements of your water rights and the water rights of other surface water users in Section 5 as described above. If you disagree, you must follow the instructions below.

This will be your only opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in Section 5. Subsequent *inter se* proceedings in Section 5 will not include the opportunity to object to those determinations.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated above, or to the irrigation water requirements for surface water irrigation use in Section 5 as stated above, you must file the form entitled Objection and Response to Notice and Order to Show Cause with the Court, in person or my mail FOR RECEIPT NO LATER THAN DECEMBER 31, 2007:

United States District Court clerk
120 South Federal Place
Santa Fe, NM 87501

If you timely file an objection the Special Master will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard by the Court. This will be your only opportunity to object to these elements of your water rights or any other water rights.

If you fail to timely object and to attend the scheduling and pretrial conference you may not raise objections in the future.

If you have any questions, call or write:

Edward G. Newville
Special Assistant Attorney General
Office of State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444 phone
(505) 867-2299 facsimile

or, Mary E. Humphrey
Attorney for Gallina–Capulin Acequia
Association and Section 5 Acequias
P.O. Box 1574
El Prado, NM 87529-1574
(505) 758-2203 phone
(505) 758-5129 facsimile

BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Approved:

VICKIE L. GABIN
SPECIAL MASTER

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

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RIO CHAMA STREAM SYSTEM

Section 5, Rio Gallina

NOTICE AND ORDER TO SHOW CAUSE

To: [community ditch]
[address]
[address]

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority date for the private ditch described below:

Emilio Jacquez Ditch 1902

The priority date described above will apply to all individual irrigation water rights served by the ditch listed, unless you or other parties file objections.

If you agree with the priority date stated above, you do not need to take any action, and the Court will enter an order that recognizes the above priority date for this ditch. If you disagree, you must follow the instructions below.

In the absence of any objections, you will have no other opportunity in these proceedings to

Ex. B

object to the determination of the priority date for this ditch, and subsequent *inter se* proceedings in Section 5 will not include the opportunity to object to that determination.

IT IS THEREFORE ORDERED THAT if you object to the priority date for the private ditch stated above, you must file a written objection with the Court. You must file your objection, if any, with the Federal District Court by December 31, 2007. If you timely file an objection the Special Master will notify you of how to present your objections in Court.

BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Approved:

VICKIE L. GABIN
SPECIAL MASTER

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

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RIO CHAMA STREAM SYSTEM

Section 5, Rio Gallina

NOTICE AND ORDER TO SHOW CAUSE

To: United State of America
David W. Gehlert, Esq.
United States Department of Justice
Environment and Natural Resources Section
1961 Stout Street, Floor 8
Denver, CO 80294

Priority Dates:

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority dates for any of the community or private ditches in Section 5 (Rio Gallina), including the priority date of any individual irrigation water rights under those ditches, as described below:

Vigiles Ditch	1876
Rincon Ditch	1876
Placitas Ditch	1876

EX. C

Sanchez–Maestas Ditch	1876
Cordova–Martinez Ditch	1878
Gonzales–Gurule Ditch	1878
Cecilia Ditch	1878
Valdez Ditch	1878
Emilio Jacquez Ditch	1902

The priority dates described will apply to all individual irrigation water rights served by the ditches listed, unless individual water rights holders file objections.

Irrigation Water Requirements:

In addition, you are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State’s proposed determination of the irrigation water requirements for surface water irrigation use in Section 5 (Rio Gallina) as described below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.38 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 3.46 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 5.77 acre-feet per acre per annum.

The term “Consumptive Irrigation Requirement” (“CIR”) refers to the quantity of water, expressed in acre-feet per acre per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term “Farm Delivery Requirement” (“FDR”) refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the

consumptive irrigation requirements of crops grown on a farm in one calendar year. The “Project Diversion Requirement” (“PDR”) or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stockponds or other impoundments determined to have valid water rights in these proceedings.

If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action, and the Court will enter an order that recognizes the elements of the water rights for surface water irrigation use in Section 5 as described above. If you disagree, you must follow the instructions below.

In the absence of any objections, you will have no other opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in Section 5, and subsequent *inter se* proceedings in Section 5 will not include the opportunity to object to those determinations.

Notwithstanding the above, the United States shall have no obligation to raise an objection to the determination of priority dates and irrigation water requirements described above in its capacity as trustee for the benefit of Ohkay Owingeh (Pueblo of San Juan) or any other Indian nation. Any such objection may be raised during stream system wide *inter se* proceedings or other applicable *inter se* proceedings as may be ordered by the Court.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated above, or to the irrigation water requirements for surface water irrigation use in Section 5 as stated above, you must file a written objection with the Court. You must file your objection, if any, with the

Federal District Court by December 31, 2007. If you timely file an objection the Special Master will notify you of how to present your objections in Court.

BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Approved:

VICKIE L. GABIN
SPECIAL MASTER

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
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RIO CHAMA STREAM SYSTEM

Section 5, Rio Gallina

NOTICE AND ORDER TO SHOW CAUSE

TO ALL CLAIMANTS, KNOWN AND UNKNOWN, WHO CLAIM A RIGHT TO USE SURFACE WATERS OF THE RIO CHAMA STREAM SYSTEM, RIO CHAMA SECTION 5 (RIO GALLINA)

AND TO ALL OF THE FOLLOWING WHO CLAIM A RIGHT TO USE SURFACE WATERS OF THE RIO CHAMA STREAM SYSTEM, SECTION 5 (RIO GALLINA), AND WHOSE NAMES APPEAR BELOW:

<u>DEFENDANT</u>	<u>ACEQUIA OR DITCH</u>	<u>PRIORITY</u>
Helen Vigil	Vigiles Ditch	1876
Julian Vigil	Vigiles Ditch	1876
Linda Vigil	Vigiles Ditch	1876
Mary Vigil	Vigiles Ditch	1876
Olivia Vigil	Vigiles Ditch	1876
Robert M. Vigil	Vigiles Ditch	1876
 Atilana Chacon	 Rincon Ditch	 1876
Cosme S. Chacon	Rincon Ditch	1876
Jose L. Chacon	Rincon Ditch	1876
Levi A. Sanchez	Rincon Ditch	1876
Lucinda Chacon	Rincon Ditch	1876
Mary Sanchez	Rincon Ditch	1876
Rodger F. Corrales	Rincon Ditch	1876

Ex. D

Rosalie F. Wilson	Rincon Ditch	1876
Ubaldo Jacquez	Rincon Ditch	1876
Alice Jacquez	Placitas Ditch	1876
Alvin N. Jacquez	Placitas Ditch	1876
Arcelia Chacon	Placitas Ditch	1876
Cosme L. Chacon	Placitas Ditch	1876
Dorothy Jacquez	Placitas Ditch	1876
Eddie Garcia	Placitas Ditch	1876
Faye Davis	Placitas Ditch	1876
Fulgencio Jacquez	Placitas Ditch	1876
Herman Jacquez	Placitas Ditch	1876
Jose L. Chacon	Placitas Ditch	1876
Jose Z. Chacon	Placitas Ditch	1876
Juanita A. Jacquez	Placitas Ditch	1876
Lucinda Chacon	Placitas Ditch	1876
Mary Ann Jacquez	Placitas Ditch	1876
Max A. Martinez	Placitas Ditch	1876
Neives Martinez	Placitas Ditch	1876
Pauline Jacquez	Placitas Ditch	1876
Reina Maestas	Placitas Ditch	1876
Roger Jacquez	Placitas Ditch	1876
Rosalie F. Wilson	Placitas Ditch	1876
Tommy F. Chacon	Placitas Ditch	1876
Abram Cordova	Sanchez–Maestas Ditch	1876
Faye Davis	Sanchez–Maestas Ditch	1876
Julian Vigil	Sanchez–Maestas Ditch	1876
Mary Vigil	Sanchez–Maestas Ditch	1876
Robert M. Vigil	Sanchez–Maestas Ditch	1876
Abram Cordova	Cordova–Martinez Ditch	1878
Alfirio Maestas	Cordova–Martinez Ditch	1878
Alice Jacquez	Cordova–Martinez Ditch	1878
Alice Madrid	Cordova–Martinez Ditch	1878
Amanda Gonzales	Cordova–Martinez Ditch	1878
Andrew J. Leyba	Cordova–Martinez Ditch	1878
Anthony Leyba	Cordova–Martinez Ditch	1878
Antonette B. Lovato	Cordova–Martinez Ditch	1878
Aurelia Chavez	Cordova–Martinez Ditch	1878
Bonifacio W. Gonzales	Cordova–Martinez Ditch	1878
Cassilda Jacquez Serrano	Cordova–Martinez Ditch	1878
Clement L. Suazo	Cordova–Martinez Ditch	1878

Cristobal Jacquez	Cordova-Martinez Ditch	1878
David Chavez	Cordova-Martinez Ditch	1878
Delfin Jacquez	Cordova-Martinez Ditch	1878
Diana Suazo	Cordova-Martinez Ditch	1878
Edward Leyba	Cordova-Martinez Ditch	1878
Eliseo Jacquez	Cordova-Martinez Ditch	1878
Estate of Odella Lovato	Cordova-Martinez Ditch	1878
Eugenio Sanchez Estate	Cordova-Martinez Ditch	1878
Ezequiel Cordova	Cordova-Martinez Ditch	1878
Frank Jacquez	Cordova-Martinez Ditch	1878
Gabriel Maestas, Jr.	Cordova-Martinez Ditch	1878
Genevieve M. Velasquez	Cordova-Martinez Ditch	1878
Gilbert Jacquez	Cordova-Martinez Ditch	1878
Isabel Lucero	Cordova-Martinez Ditch	1878
Jacobo Arellano	Cordova-Martinez Ditch	1878
Joe Velasquez	Cordova-Martinez Ditch	1878
Johhny A. D. Lovato	Cordova-Martinez Ditch	1878
Jose P. Chavez	Cordova-Martinez Ditch	1878
Juan C. Chavez	Cordova-Martinez Ditch	1878
Julie Pederson	Cordova-Martinez Ditch	1878
L. Marisa Rodriguez	Cordova-Martinez Ditch	1878
Laura A. Velasquez	Cordova-Martinez Ditch	1878
Leora Jacquez Lucero	Cordova-Martinez Ditch	1878
Luis Toby Velasquez	Cordova-Martinez Ditch	1878
Marino Jacquez	Cordova-Martinez Ditch	1878
Martha Cordova	Cordova-Martinez Ditch	1878
Mary Ann Maestas	Cordova-Martinez Ditch	1878
Mary L. Espinoza	Cordova-Martinez Ditch	1878
Max Maestas	Cordova-Martinez Ditch	1878
Mike Jacquez	Cordova-Martinez Ditch	1878
Monica T. Rodriguez	Cordova-Martinez Ditch	1878
Orlando Madrid	Cordova-Martinez Ditch	1878
Patrick Rodriguez	Cordova-Martinez Ditch	1878
Patsy L. Chavez	Cordova-Martinez Ditch	1878
Philip Jacquez	Cordova-Martinez Ditch	1878
Piedad Chavez	Cordova-Martinez Ditch	1878
Ramona Jacquez Estate	Cordova-Martinez Ditch	1878
Ramoncita Maestas	Cordova-Martinez Ditch	1878
Raymond Suazo	Cordova-Martinez Ditch	1878
Richard Cordova	Cordova-Martinez Ditch	1878
Rita Jacquez	Cordova-Martinez Ditch	1878
Rogelio Corrales	Cordova-Martinez Ditch	1878
Ronald Chavez	Cordova-Martinez Ditch	1878
Sam Chavez	Cordova-Martinez Ditch	1878

Selustriano Gonzales, Sr.	Cordova-Martinez Ditch	1878
Steve E. Velasquez	Cordova-Martinez Ditch	1878
Sylvia Middleton	Cordova-Martinez Ditch	1878
Thelma Chavez	Cordova-Martinez Ditch	1878
Ubaldo Jacquez	Cordova-Martinez Ditch	1878
Vincente Jacquez	Cordova-Martinez Ditch	1878
Virginia Lewellen	Cordova-Martinez Ditch	1878
Vivian Salazar	Cordova-Martinez Ditch	1878
Willie Chavez	Cordova-Martinez Ditch	1878
Alice Jacquez	Gonzales-Gurule Ditch	1878
Alvin Suazo	Gonzales-Gurule Ditch	1878
Amadeo Segura	Gonzales-Gurule Ditch	1878
Arturo R. Montoya	Gonzales-Gurule Ditch	1878
Cosme S. Chacon	Gonzales-Gurule Ditch	1878
Cruzita Segura	Gonzales-Gurule Ditch	1878
Edith Martinez	Gonzales-Gurule Ditch	1878
Elaine M. Valdez	Gonzales-Gurule Ditch	1878
Elvira Chavez	Gonzales-Gurule Ditch	1878
Ernesto J. Serrano, Jr.	Gonzales-Gurule Ditch	1878
Florence Shipley	Gonzales-Gurule Ditch	1878
Fulgencio Chacon	Gonzales-Gurule Ditch	1878
Henry L. Jacquez	Gonzales-Gurule Ditch	1878
Jose B. Chacon	Gonzales-Gurule Ditch	1878
Jose L. Chacon	Gonzales-Gurule Ditch	1878
Leonardo Chavez	Gonzales-Gurule Ditch	1878
Manuel Garcia	Gonzales-Gurule Ditch	1878
Mark W. Valdez	Gonzales-Gurule Ditch	1878
Maurice L. Serrano	Gonzales-Gurule Ditch	1878
Roberto Martinez	Gonzales-Gurule Ditch	1878
Sarita V. Montoya	Gonzales-Gurule Ditch	1878
Ursulita Vigil	Gonzales-Gurule Ditch	1878
Vivian Suazo Trust	Gonzales-Gurule Ditch	1878
Willie A. Suazo	Gonzales-Gurule Ditch	1878
Joe O. Cordova	Cecilia Ditch	1878
Manuelita Cordova	Cecilia Ditch	1878
Miguel D. Suazo	Cecilia Ditch	1878
Porfiria Jaramillo	Cecilia Ditch	1878
Reducinda Maestas	Cecilia Ditch	1878
Simonita Maestas Estate	Cecilia Ditch	1878
Vivian Suazo Trust	Cecilia Ditch	1878
Alfonzo Cordova, Jr.	Valdez Ditch	1878

Daniel K. Gonzales	Valdez Ditch	1878
Elisaida Padilla	Valdez Ditch	1878
Jose Dolores Gonzales	Valdez Ditch	1878
Jose L. Chacon	Valdez Ditch	1878
Luz Gonzales	Valdez Ditch	1878
Miguel Lujan	Valdez Ditch	1878
Robert Fidel Arellano	Valdez Ditch	1878
Stella M. Gonzales	Valdez Ditch	1878
Vivian Suazo	Valdez Ditch	1878
Henry L. Jacquez	Emilio Jacquez Ditch	1902

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority date of your water right and ditch, or the priority dates for any other community or private ditch in Section 5 (Rio Gallina) as described above.

In addition, you are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use in Section 5 (Rio Gallina) as described below:

- a. The weighted consumptive irrigation requirement (CIR) is 1.38 acre-feet per acre per annum.
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If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action, and the Court will enter an order that recognizes the elements of your water rights and the water rights of other surface water users in Section 5 as described above. If you

disagree, you must follow the instructions below.

This will be your only opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in Section 5. Subsequent *inter se* proceedings in Section 5 will not include the opportunity to object to those determinations.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated above, or to the irrigation water requirements for surface water irrigation use in Section 5 as stated above, you must file your objection with the Court, in person or by mail FOR RECEIPT NO LATER THAN DECEMBER 31, 2007:

United States District Court clerk
120 South Federal Place
Santa Fe, NM 87501

If you timely file an objection the Special Master will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard by the Court. This will be your only opportunity to object to these elements of your water rights or any other water rights. If you fail to timely object and to attend the scheduling and pretrial conference you may not raise objections in the future.

If you have any questions, call or write:

Edward G. Newville
Special Assistant Attorney General
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or,

Mary E. Humphrey
Attorney for Gallina–Capulin Acequia
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P.O. Box 1574
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BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Approved:

VICKIE L. GABIN
SPECIAL MASTER